

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

DAVID GARCIA,

Civil No. 03-6537 (JRT/JSM)

Plaintiff,

v.

ORDER

LYNN DINGLE, et al.,

Defendants.

David Garcia, Minnesota Correctional Facility, Oak Park Heights, #203728, 5329 Osgood Avenue North, Stillwater, Minnesota, *pro se* plaintiff.

Kari Jo Ferguson and Richard L. Varco, Jr., **MINNESOTA ATTORNEY GENERAL'S OFFICE**, 445 Minnesota Street, Suite 900, St. Paul, Minnesota 55101, for defendants.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Janie S. Mayeron dated December 28, 2005. No objections have been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. Defendants' Motion Summary Judgment [Docket No. 29] is **GRANTED** as

to plaintiff's First Amendment claims set forth in ¶¶ 1-3, 5, 12 of plaintiff's Complaint [Docket No. 14], and these claims are **DISMISSED WITH PREJUDICE**; and

2. Plaintiff's Motion for Partial Dismissal of Claims/Suit [Docket No. 42] is **GRANTED**, and that ¶¶ 4, 6-11 and 13-77 of his Complaint [Docket No. 14] are **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 23, 2006
at Minneapolis, Minnesota

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge